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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,284	03/30/2007	Joseph McCrossan	P37182-02	9989

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WASHINGTON, DC 20036

EXAMINER

SHIBRU, HELEN

ART UNIT	PAPER NUMBER
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2621

NOTIFICATION DATE	DELIVERY MODE
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10/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/585,284	MCCROSSAN ET AL.	
	Examiner	Art Unit	
	HELEN SHIBRU	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/28/09 and 07/06/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species 2 and subspecies 32, 36A and 47A corresponding to claims 1-4 and 6-14 in the reply filed on 10/02/2009 is acknowledged. The traversal is on the ground(s) that the restriction requirement is not applicable because the application is a national stage application. The Examiner agrees that the restriction requirement should have been restriction requirement of national stage applications. Therefore second restriction requirement is sets forth below. However, examination is performed on the elected claims herby given.

The requirement is still deemed proper however it is not FINAL.

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species and Sub Species are as follows:

Species 1: Figure 10

Species 2: Figure 11

Species 3: Figure 12

Sub Species 1: Figure 32

Figure 33

Figure 34

Figure 35

Sub Species 2: Figure 36A

Figure 36B

Sub Species 3: Figure 46

Figure 47A

3. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species 1 referring to setting of the page version number field in two consecutive display set and the content of the page information in DSx + 1 is identical to that of DSx. On the other hand, according to Species 2, the content of the page information in DSx + 1 differs to that in the page information in DSx. Finally page information in DSx +1 Has three buttons, the value set in the page version number field in the page information in DSx + 1 is greater value than that in DSx, according to Species 3.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of

Art Unit: 2621

search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 6-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Murase (US Pat. No. 5, 907, 658).

Regarding claim 1, Murase teaches a recording medium having recorded thereon a video stream and a graphics stream, wherein the video stream constitutes a moving picture (see figures 18, 19A-19B), and the graphics stream constitutes a plurality of menu presentations to be composited with the moving picture (see figures 19A-B), and includes

Art Unit: 2621

a plurality of Display Sets that constitute respective menu presentations (see figures 19A, B and figure 20), each menu presentation being composed of one or more pages (see 'YES', 'NO' (X1, Y1), (X2, Y2)... in figures 19A-B and 20), and each Display Set including version information that shows whether or not content of each of the pages in the Display Set has changed with respect to a previous Display Set (see figure 18 and col. 23 line 39-col. 24 line 29 and col. 25 lines 7-31).

Regarding claim 2, Murase discloses the graphics stream and the video stream are multiplexed together on the recording medium (see figure 24 unit 90 and col. 30 lines 1-40), each Display Set includes a timestamp showing an arbitrary point in time on a playback time axis of the video stream (see col. 12 lines 57-67 and col. 14 lines 16-34), and menu presentation according to any one of the Display Sets commences at the point in time shown by the timestamp included in the Display Set (see figures 19A and 20).

Regarding claim 3, Murase discloses each Display Set further includes user interface information for instructing a playback apparatus to automatically composite the menu presentation with the moving picture when the point in time shown by the timestamp is passed (see col. 18 lines 17-42 and col. 21 lines 36-44).

Regarding claim 4, Murase discloses each Display Set further includes user interface information for instructing a playback apparatus to, when the point in time shown by the timestamp is passed, composite the menu presentation with the moving picture if a call operation for a pop-up menu is received from a user (see col. 25 lines 37-64).

Regarding claim 6, Murase discloses the graphics stream is composed of a plurality of pieces of segment information (see figures 18, 19A-B and 21), and each piece

Art Unit: 2621

of segment information is one of (i) a graphics object segment having a plurality of pieces of graphics data, and (ii) a composition segment defining a menu screen composition and a display time (see figures 5, 18 and 21).

Regarding claim 7, Murase discloses a playback apparatus comprising: a video decoder operable to decode a video stream, to obtain a moving picture (see figure 24 unit 87); and a graphics decoder operable to decode a graphics stream, to obtain a menu presentation that is to be composited with the moving picture (see sub-picture decoder 88), wherein the graphics stream includes a plurality of Display Sets that constitute the menu presentation (see figure 21 and col. 23 lines 14-29), and the graphics decoder includes: a composition buffer operable to store a composition segment, the composition segment including page information that corresponds to pages in the menu presentation (see figure 8 and col. 16 line 64-col. 17 line 25); and a write control unit operable to when a new Display Set is read in accordance with progression of playback of the video stream, compare a page version number in each piece of page information in the read Display Set with a page version number in a corresponding piece of page information stored in the composition buffer, to detect whether contents of the piece of page information have been updated (see rejection of claim 1 above), and when contents of a piece of page information have been updated, use the updated piece of page information to overwrite the corresponding piece of page information in the composition buffer (see col. 16 lines 7-35).

Regarding claim 8, Murase discloses a display control unit (see col. 14 lines 44-51), wherein, if a piece of page information is overwritten, a page, among the plurality of

Art Unit: 2621

pages in the menu display, corresponding to the rewritten piece of page information is re-presented (see col. 34 lines 26-43).

Regarding claim 9, Murase discloses a graphics plane operable to store uncompressed graphics that compose the menu presentation (see figure 24 the sub-picture is decoded), wherein the graphics decoder further includes: a processor operable to decode graphics included in any one of the Display Sets (see signal processing unit (84) and system controlling unit (93) in figure 24); and an object buffer operable to store uncompressed graphics obtained by the processor (see col. 29 lines 8-50), and re-presenting of a page is performed by reading, from among the uncompressed graphics in the object buffer, uncompressed graphics referred to by the piece of page information stored as a result of the overwriting, and writing the read uncompressed graphics to the graphics plane (see col. 16 lines 27-39 and col. 20 line 64-col. 21 line 22).

Regarding claim 10, Murase discloses the graphics stream is recorded on the recording medium multiplexed with a video stream (see figure 24), the page information is stored in a packet, the packet including a presentation time stamp that shows an arbitrary point in time on a playback time axis of the video stream (see col. 12 lines 57-67 and col. 14 lines 16-34), and the writing to the graphics plane by the display control unit is complete before a current playback position with respect to the video stream reaches the point in time shown by the presentation time stamp (see col. 18 lines 17-42 and col. 21 lines 36-44).

Regarding claim 11, Murase discloses the display control unit has the re-presented menu composited with the moving picture at a point at which (i) the current playback

Art Unit: 2621

position reaches the point in time and (ii) an operation to call a popup menu is has been performed by a user (see col. 25 lines 37-64).

Regarding claim 12, Murase discloses the display control unit has the re-presented menu composited with the moving picture at a point at which the current playback position reaches the point in time (see col. 18 lines 17-42).

Regarding claim 13, Murase discloses the packet that stores the page information includes a decode time stamp in addition to the presentation time stamp (see col. 12 line 45-col. 13 line 31), the writing from the object buffer to the graphics plane is performed in a duration starting at a point in time shown by the decode time stamp and ending at the point in time shown by the presentation time stamp (see col. 33 lines 35-60), the uncompressed graphics written to the graphics plane constitute graphical button materials on a page (see figures 19A, 20 and 21), and the display control unit prohibits any change in a state of the button materials for the duration (see col. 14 lines 44-63).

Regarding claim 14, Murase discloses the graphics decoder includes a processor operable to decode graphics data included in the Display Set, and have stored, in the object buffer, uncompressed graphics data obtained as a result of the decoding (see figure 24 and col. 16 lines 27-39), and the processor writes uncompressed graphics to the object buffer when a first Display Set is read, and when each successive Display Set is read, suppresses overwriting of the uncompressed graphics in the object buffer (see col. 20 line 64-col. 21 line 22 and figure 21).

Conclusion

Art Unit: 2621

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/
Examiner, Art Unit 2621
October 23, 2009

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621